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APPENDIX AO

Statutes Governing Investment of the Alaska Heritage Endowment Fund

Section 37.14.500. Alaska Heritage Endowment Fund Established.

The Alaska heritage endowment fund is established as a separate endowment trust fund of the state. The principal of the fund consists of

- (1) legislative appropriations to the fund; and
- (2) gifts, bequests, and contributions of cash or other assets made by a person who has specified their placement in the fund principal.

Section 37.14.510. Net Income Account.

- (a) The net income account is established in the Alaska heritage endowment fund. The net income account of the fund consists of
- (1) money and other assets given by persons to the fund whose placement in the principal of the fund is not required by AS 37.14.500(2); and
- (2) amounts earned on the investment of gifts, bequests, and contributions of cash or other assets whose placement in the principal of the fund is required under AS 37.14.500 (2).
- (b) The legislature may appropriate from the net income account to the principal of the fund under AS 37.14.500 (1).
- (c) The net income of the fund shall be determined by the commissioner of revenue in accordance with investment accounting principles and in a manner that preserves the distinction between principal and income.
- (d) Unless otherwise provided by the act making an appropriation under (b) of this section, an amount appropriated to the net income account under (b) of this section does not lapse.

Section 37.14.520. Powers and Duties of the Commissioner of Revenue.

The commissioner of revenue is the treasurer of the fund and has the power and duty to

- (1) act as official custodian of the cash and investments belonging to the fund by securing adequate and safe custodial facilities;
- (2) receive all items of cash and investments belonging to the fund;
- (3) collect the principal and income from investments owned or acquired by the fund and deposit the amounts in separate principal and income accounts for the fund;
- (4) invest and reinvest the assets of the fund as provided in this section and as provided for the investment of funds under AS 37.14.170;

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- (5) exercise the powers of an owner with respect to the assets of the fund;
- (6) maintain accounting records of the fund in accordance with investment accounting principles and with distinction between the principal and income accounts of the fund;
- (7) engage an independent firm of certified public accountants to annually audit the financial condition of the fund's investments and investment transactions;
- (8) enter into and enforce contracts or agreements considered necessary for the investment purposes of the fund:
- (9) report to the commission the condition and investment performance of the fund;
- (10) do all acts, whether or not expressly authorized, that the commissioner of revenue considers necessary or proper in administering the assets of the fund.

Section 37.10.070. Investment of residual money.

- (a) The commissioner shall invest, as set out in AS 37.10.071, the money in the state treasury above an amount sufficient to meet immediate expenditure needs. In managing the invested assets, the commissioner shall:
- (1) consider the status of the assets and liabilities on both a current and a probable future basis;
- (2) determine the appropriate investment objectives;
- (3) establish investment policies to achieve the objectives; and
- (4) act only in regard to the best financial interests of the state.
- (b) The commissioner may invest on the basis of probable total rate of return without regard to the distinction between principal and income and without regard to the generation of income.
- (c) In this section, "commissioner" means the commissioner of revenue

Section 37.10.071. Investment powers and duties.

- (a) In making investments under this section, the fiduciary of a state fund shall
- (1) act as official custodian of cash and investments by securing adequate and safe custodial facilities for them:
- (2) receive all items of cash and investments;
- (3) collect and deposit the principal of and income from owned or acquired investments;
- (4) invest and reinvest the assets in accordance with this section;
- (5) receive and spend appropriations to cover the cost of the exercise of duties under this section;
- (6) exercise the powers of an owner with respect to the assets;
- (7) perform all acts, not prohibited by this section, whether or not expressly authorized, that the fiduciary considers necessary or proper in administering the assets;

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- (8) maintain accounting records in accordance with generally accepted accounting principles;
- (9) engage an independent certified public accountant to conduct an annual audit of the financial condition and investment transactions;
- (10) enter into and enforce contracts or agreements considered necessary, convenient, or desirable for the investment purposes of this section; and
- (11) when choosing to acquire or dispose of investments, secure competitive national or international market rates or prices, or the equivalence of those rates or prices in the judgment of the fiduciary.
- (b) Under this section, the fiduciary of a state fund or the fiduciary's designee may
- (1) delegate investment, custodial, or depository authority on a discretionary or nondiscretionary basis to officers or employees of the state or to independent firms, banks, financial institutions, or trust companies by designation through appointments, contracts, or letters of authority;
- (2) acquire or dispose of investments either directly, indirectly, or through investment pools or trusts, by competitive or negotiated agreements, contracts, or auctions, in public or private markets;
- (3) concentrate or diversify investments as the fiduciary considers appropriate to increase the probable total rate of return or to decrease the overall exposure to potentially adverse market value risks;
- (4) protect the market value or the rate of return of the investments by entering into forward agreements to buy or sell assets at a future date as a hedge against existing held assets or as a precommitment of future cash flows;
- (5) lend assets, under an agreement and for a fee, against deposited collateral of equivalent market value;
- (6) borrow assets on a short-term basis, under an agreement and for a fee, against the deposit of collateral consisting of other assets in order to accommodate temporary cash or investment needs;
- (7) hold investments in bearer or registered form in the name of the state, a fund, or nominees authorized by the fiduciary;
- (8) utilize consultants, advisors, custodians, investment services, and legal counsel for assistance in investment matters on either a continuing or a limited-term basis and with or without compensation;
- (9) declare records to be confidential and exempt from AS 40.25.110 and 40.25.120 if the records contain information that discloses the particulars of the business or the affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.
- (c) In exercising investment, custodial, or depository powers or duties under this section, the fiduciary of a state fund shall apply the prudent investor rule and exercise the fiduciary duty in the sole financial best interest of the fund entrusted to the fiduciary. Among beneficiaries of a fund, the fiduciaries shall treat beneficiaries with impartiality.
- (d) In exercising investment, custodial, or depository powers or duties under this section, the fiduciary or the fiduciary's designee is liable for a breach of a duty that is assigned or delegated under this section, or under AS 14.40.255, 14.40.280(c), 14.40.400(b), AS 37.10.070, AS 37.14.110 (c), 37.14.160, or 37.14.170. However, the fiduciary or the designee is not liable for a breach of a duty that has been delegated to another

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person if the delegation is prudent under the applicable standard of prudence set out in statute or if the duty is assigned by law to another person, except to the extent that the fiduciary or designee

- (1) knowingly participates in, or knowingly undertakes to conceal, an act or omission of another person knowing that the act or omission is a breach of that person's duties under this chapter;
- (2) by failure to comply with this section in the administration of specific responsibilities, enables another person to commit a breach of duty; or
- (3) has knowledge of a breach of duty by another person, unless the fiduciary or designee makes reasonable efforts under the circumstances to remedy the breach.
- (e) The state shall defend and indemnify the fiduciary or an officer or employee of the state against liability under (d) of this section to the extent that the alleged act or omission was performed in good faith and was prudent under the applicable standard of prudence.
- (f) In this section, "fiduciary of a state fund" or "fiduciary" means
- (1) the commissioner of revenue for investments under AS 37.10.070;
- (2) with respect to the Alaska Retirement Management Board, for investments of the collective funds that it manages and administers,
- (A) each trustee who serves on the board of trustees; and
- (B) any other person who exercises control or authority with respect to management or disposition of assets for which the board is responsible or who gives investment advice to the board; or
- (3) the person or body provided by law to manage the investments for investments not subject to AS 37.10.070.

Article 2. Use of Net Income of Alaska Heritage Endowment Fund.

Section 14.57.100. Acquisitions.

Subject to appropriation by the legislature under AS 37.14.530, the director may use the balance of the net income account of the Alaska heritage endowment fund to acquire culturally or historically significant artifacts, natural history specimens, art objects, collections, and other items, materials, or properties that represent and document Alaska's land, natural history, and people for

- (1) the Alaska State Museum; and
- (2) the Sheldon Jackson Museum.

Section 14.57.110. Ownership of Acquired Items.

Except when ownership of an item is transferred under AS 14.57.120, an item acquired under AS 14.57.100 becomes the property of the state museum.

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Section 14.57.120. Criteria Applicable to Acquisitions from the Fund.

Subject to approval given by the Museum Collections Advisory Committee under AS 14.57.050 (b), the director may

- (1) establish by contract the terms and conditions of custody, protection, conservation, and exhibition of an item acquired by the state museum if the item is acquired and custody of it is assigned to another institution;
- (2) transfer ownership of an item to an institution having custody of an item acquired from the net income account of the fund if the director is satisfied that the institution will provide necessary care and protection of the item; or
- (3) assign long-term custody of an item to an institution having custody of an item acquired from the net income account of the fund if the director is satisfied that the institution to which custody of the item is transferred will provide necessary care and protection of the item in accordance with a contract entered into under (1) of this section.

Section 14.57.130. Disposition of Acquired Items.

Subject to approval of the Museum Collections Advisory Committee under AS 14.57.050 (b), the director may establish a deaccession policy under which the director may exchange or otherwise convey title to an item acquired from the net income account of the fund in accordance with generally accepted principles governing the disposal of these items.

Section 14.57.199. Definitions.

In AS 14.57.100 - 14.57.199,

- (1) "director" means the director of the division of state libraries, archives, and museums;
- (2) "fund" means the Alaska heritage endowment fund established in AS 37.14.500;
- (3) "net income account" means the account established in AS 37.14.510.

Article 03. PROPERTY HELD BY MUSEUMS